

**UNITED STATES DISTRICT COURT**

## DISTRICT OF NEVADA

HENRY FROMETA GONZALEZ,

Petitioner,

VS.

JAMES GREG COX, *et al.*,

## Respondents.

2:13-cv-01699-GMN-PAL

## ORDER

9        This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254,  
10 by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was  
11 submitted with the petition. Petitioner must either submit the \$5.00 filing fee for habeas petitions or  
12 an application to proceed *in forma pauperis*.

13 Due to the defects presented, the pauper application will be denied, and the present action  
14 will be dismissed without prejudice to the filing of a new petition in a new action with a pauper  
15 application with all required attachments. It does not appear from the papers presented that a  
16 dismissal without prejudice would result in a promptly-filed new petition being untimely. In this  
17 regard, plaintiff at all times remains responsible for calculating the running of the limitations period  
18 as applied to his case and properly commencing a timely-filed habeas corpus action.

IT THEREFORE IS ORDERED that this action is DISMISSED without prejudice to the filing of a new petition in a new action.

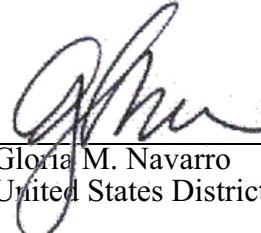
IT FURTHER IS ORDERED that the Clerk of the Court shall send petitioner two copies of an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same, two copies of a blank 28 U.S.C. § 2254 habeas petition form, one copy of instructions for the same, and one copy of the papers submitted at ECF No. 1.

IT IS FURTHER ORDERED that petitioner may file a new petition in a new action, but he  
may not file further documents in this action.

1           **IT FURTHER IS ORDERED** that all pending motions are **DENIED**.

2           **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

3           **DATED** this 7th day of November, 2013.

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7           Gloria M. Navarro  
8           United States District Judge  
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